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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,000	12/16/2003	Astrid Gorge	MO 5980/HCSP70	5754

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BAYER MATERIAL SCIENCE LLC
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EXAMINER

HENDRICKSON, STUART L

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The request filed on 11/16/05 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) is acceptable.

Claims 16, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over SU '570 taken with Provance et al.

The reference teaches treating BCC with hydroxide to make cobalt hydroxide. Also taught is making a paste.

The abstract does not teach the suspension or particle size, however Provance teaches in column 3 a paste of cobalt salts of the claimed particle size. Concerning the use of a 'suspension', this is deemed to differ from a paste in the water content.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a suspension of cobalt in the process of '570 because doing so makes the material more readily pumped and stirred, for better reactivity. See also In re Boesch 205 USPQ 215.

No difference is seen in the formula of the carbonate versus what the Su reference uses, since it is a hydroxy-carbonate which is an alternate expression for basic carbonate used by '570. The present subscripts encompass such a wide range, it appears that any hydroxycarbonate (or basic carbonate) would be encompassed thereby.

Concerning the particle size of the product, it is noted that it is the same size range as the starting material, so it appears met since the starting material of the reference can be of a wide range which includes the claimed range.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over SU '570 taken with Provance et al. as applied to claims 16, 19, 20 above, and further in view of JP '385.

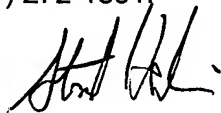
SU does not calcine, but JP does to make the oxide. Performing the calcinations on the '570 product is an obvious expedient to make the valuable product desired by '385. Note that use of a material from one process as the starting material for a different process is an obvious expedient; In re Kamlet 88 USPQ 106.

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Applicant's arguments with respect to claims rejected above have been considered but are moot in view of the new ground(s) of rejection.

It is noted that in claim 1, CO should be Co. The starting material appears to be within the limits of the claims, as does the particle size.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

A handwritten signature in black ink, appearing to read 'Stuart Hendrickson', is positioned above the printed name.

Stuart Hendrickson
examiner Art Unit 1754